

Patent
Attorney Dkt.: LYNN/0153.A

REMARKS

Applicant requests entry of the amendments to the specification shown above. These amendments are made to correct typographical errors or provide proper references and do not add new matter. A statement as to the priority of the pending application is also provided. Entry of these amendments is respectfully requested.

Claim 27 was amended to correct the typographical error of no period at the end of the claim. Applicant requests entry of the amendment.

Claims 6-9, 12, 14, 21, 29, 30, 32 and 36 stand objected to as not being in proper Markush format. Applicant has amended these claims as suggested by the Examiner, except for claim 6 that has no Markush group. Reconsideration and withdrawal of the objection is respectfully requested.

Claims 31 and 33 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner points out that claim 27 claims a first and second bipolar plate that claims an anodic flowfield in communication with a first bipolar plate and a cathode flowfield in communication with a second bipolar plate. (Office Action, p. 2, ¶ 4). The Examiner suggests that Applicant amend claims 31 and 33 to depend from claim 27 and to recite which bipolar plate is referred to in each claim. *Id.* Otherwise, the Examiner has determined that there is no antecedent basis for "the bipolar plate" from claim 26. *Id.*

In claim 26, Applicant claims an apparatus comprising, *inter alia*, a bipolar plate separating each of the plurality of electrolytic cells, each electrolytic cell containing an anodic flowfield and a cathodic flowfield. (Claim 26). Claim 31 further narrows claims 26 by claiming that the anodic fluid flowfield claimed in claim 26 is metallurgically bonded to the bipolar plate claimed in claim 26. Likewise, in claim 33, Applicant claims that the cathodic fluid flowfield claimed in claim 26 is bonded to the bipolar plate that is claimed in claim 26. Therefore, Applicant respectfully asserts that there is antecedent basis for the "the bipolar plate" from claim 26, since claim 26 contains the limitation of "a bipolar plate." Reconsideration and withdrawal of the rejection is respectfully requested.

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Claims 1-3 and 18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Furuya (Japanese Publication No. JP 02-054790). Furuya discloses an apparatus for electrolytically synthesizing ammonia. Furuya discloses an aqueous electrolytic solution which is fed into the space between the reactive layers of the electrodes. (Furuya Abstract). Applicant claims, in independent claims 1, a liquid electrolyte that is not an aqueous solution. (Claim 1).

A *prima facie* case of anticipation must provide each and every element of the claimed invention. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Because Furuya does not disclose, suggest or teach that a liquid electrolyte may be used that is not an aqueous solution, Furuya does not disclose each and every limitation claimed by Applicant.

Because Furuya does not disclose each and every limitation claimed by Applicant in claim 1, and because claims 2, 3 and 18 depend from claim 1, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-3 and 18.

Claims 4-6, 13 and 15-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Furuya (Japanese Publication No. JP 02-054790). Claims 6-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Furuya (Japanese Publication No. JP 02-054790) in view of Hartner, *et. al.* (U.S. Patent No. 3,393,098). Claims 4-17 each depend from claim 1. Pursuant to the remarks, *supra*, Applicant has respectfully requested the reconsideration and withdrawal of the rejection of claim 1. Therefore, because claims 4-17 each depend from claim 1, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 4-17.

Claims 26-36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Furuya (Japanese Publication No. JP 02-054790) in view of Turner, *et. al.* (U.S. Patent No. 5,584,981). The Examiner determined that Furuya taught all the limitations of Applicant's independent claim 26 except for a plurality of electrolytic cells, for which Turner was cited. (Office Action, p. 7, ¶ 11). Pursuant to the remarks concerning claim 1, *supra*, Applicant has amended claim 26 to include the limitation of a liquid electrolyte, wherein the liquid electrolyte is not an aqueous solution. (Claim

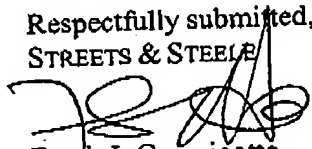
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26). Because Furuya does not teach or suggest or otherwise disclose an electrolyte other than an aqueous electrolyte, Furuya and Turner do not disclose, even in combination, each and every claimed limitation of Applicant's claim 26. Therefore,

Claims 19-25 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Pursuant to the remarks, *supra*, Applicant has amended claim 1 and requested reconsideration and withdrawal of the rejection. Therefore, claims 19-25, which depend from claim 1, now depend from a claim that Applicant has amended and requested reconsideration and withdrawal of the rejection.

In conclusion, Applicant submits that all remaining claims in the present application are entitled to allowance and the issuance of a Notice of Allowance is earnestly solicited. Should the Examiner determine that a telephone interview would expedite the examination of the pending patent application, the Examiner is invited to telephone the below signed attorney. In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/LYNN/0153.A of the firm of the below-signed attorney in the amount of any necessary fee.

Respectfully submitted,
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